

CHAPTER 3.05

PHOSPHORUS BAN

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NOTE: Chapter 3.05 shall be effective February 1, 1991. This ordinance shall expire on December 31, 1994, unless otherwise extended by Metro council ordinance.

3.05.010 Policy and Purpose

The council recognizes its authority and responsibility in ORS 268.030 and 268.390 to plan and provide for metropolitan aspects of sewerage, control of surface water, and water supply. This ordinance is an exercise of police power under ORS 268.360 for purposes of these authorized functions.

The council hereby finds that phosphorous loading of surface waters is currently a serious pollution problem affecting water quality in the Tualatin River Subbasin and threatens future water quality in other surface waters of the region. Phosphate detergents contribute significant phosphorous loading to the treated wastewater released to surface waters in the metropolitan area. When phosphorous loading becomes a serious pollution problem, federal and state standards may require advanced wastewater treatment facilities at public expense beyond primary and secondary treatment facilities. This ordinance is enacted to reduce phosphorus pollution in the metropolitan area at its source to maintain existing water quality and to enhance cost-effective wastewater treatment where phosphorous pollution becomes a serious pollution problem.

(Ordinance No. 90-336, Sec. 1)

3.05.020 Definitions

(a) "Cleaning agent" means any product, including but not limited to soaps and detergents, containing a surfactant as a wetting or dirt emulsifying agent and used primarily for domestic

or commercial cleaning purposes, including, but not limited to the cleansing of fabrics, dishes, food utensils, and household and commercial premises. Cleaning agent shall not mean foods, drugs, cosmetics, insecticides, fungicides and rodenticides, or cleaning agents exempt from this ordinance as provided in section 3.05.040.

(b) "Phosphorus" means elemental phosphorus.

(c) "Person" means any person, firm, partnership or corporation.

(d) "Commercial premises" means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity, including but not limited to laundries, hotels, motels, and food or restaurant establishments.

(Ordinance No. 90-336, Sec. 1)

#### 3.05.030 Prohibition

No person may sell or distribute for sale within the Metropolitan Service District, any cleaning agents containing more than 0.5 percent phosphorus by weight except cleaning agents used in automatic dishwashing machines shall not exceed 8.7 percent phosphorus by weight.

(Ordinance No. 90-336, Sec. 1)

#### 3.05.040 Exemptions

This ordinance shall not apply to any cleaning agent:

(a) Used in dairy, beverage, or food processing equipment.

(b) Used as an industrial sanitizer, brightener, acid cleaner, or metal conditioner, including phosphoric acid products or trisodium phosphate.

(c) Used in hospitals, veterinary hospitals or clinics, or health care facilities.

(d) Used in agricultural production and the production of electronic components.

(e) Used in a commercial laundry for laundry services provided to a hospital or health care facility for a veterinary hospital or clinic.

(f) Used by industry for metal cleaning or conditioning.

(g) Manufactured, stored, or distributed for use or sale outside the district.

(h) Used in any laboratory, including a biological laboratory, research facility, chemical, electronics or engineering laboratory.

(i) Used for cleaning hard surfaces, including household cleansers for windows, sinks, counters, stoves, tubs or other food preparation surfaces, and plumbing fixtures.

(j) Used as a water softening chemical, antiscaling chemical or corrosion inhibitor intended for use in closed systems, such as boilers, air conditioners, cooling towers or hot water systems.

(k) For which the council determines that imposition of this ordinance will either:

- (1) Create a significant hardship on the user; or
- (2) Be unreasonable because of the lack of an adequate substitute cleaning agent.

(Ordinance No. 90-336, Sec. 1)

#### 3.05.050 Severability

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

(Ordinance No. 90-336, Sec. 1)

#### 3.05.060 Penalty

By authority of ORS 286.360(4), the council may levy a fine up to \$500 a day for violation of this ordinance, following notification and assessment procedures outlined in the Code of the Metropolitan Service District 2.03.040 and 2.03.050.

(Ordinance No. 90-336, Sec. 1)